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UNCITRAL regional presence

Note by the Secretariat

Activities of the UNCITRAL Regional Centre for Asia and the Pacific

1. Since the Commission's forty-sixth session, the Regional Centre for Asia and the Pacific has carried out its activities according to the lines of action for technical assistance of the Secretariat (A/66/17, para. 255) as well as the specific mandate identified for the Regional Centre, namely (a) to enhance international trade and development in the Asia-Pacific region by promoting certainty in international commercial transactions through the dissemination of international trade norms and standards, in particular those elaborated by UNCITRAL; (b) to provide bilateral and multilateral technical assistance to States with respect to the adoption and uniform interpretation of UNCITRAL texts through workshops and seminars; (c) to engage in coordination activities with international and regional organizations active in trade law reform projects in the region; and (d) to function as a channel of communication between States in the region and UNCITRAL.

2. Considering the growing number of initiatives and requests, the Regional Centre has expanded its activities both geographically to South Asia and the Gulf and thematically to cross-border insolvency and public-private partnerships.

3. Systematic coordination and cooperation activities were pursued with institutions active in trade law reform, such as the following:

(a) United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), in the framework of the implementation of ESCAP Resolution No. 68/3 carried out by ESCAP and the United Nations Network of Experts for Paperless Trade in Asia and the Pacific (UN NExT) with a presentation on "Implementing Single Window and Paperless Trade" at the ESCAP-WCO UN NExT Masterclass 2013 (Cheonan, Republic of Korea, 7-18 October 2013);

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(b) United Nations Conference on Trade and Development (UNCTAD), by participating in the publication of the "Review of e-commerce legislation harmonization in the Association of Southeast Asian Nations (ASEAN)", with the ASEAN Secretariat and the ASEAN Telecommunications and Information Technology Senior Officials Meeting (TELSOM);

(c) World Bank and the International Association of Restructuring, Insolvency and Bankruptcy Professionals (INSOL), with the 9th Forum for Asian Insolvency Reforms (Manila, 3-5 December 2013) and the 1st Asia Region Judicial Roundtable (Hong Kong, China, 24 March 2014);

(d) Organisation for Economic Co-operation and Development (OECD) by participating in the consultation meetings "Regulatory reform: Regulating in a competitive region for sustained growth" and "Public-Private Partnerships (PPP's) for infrastructure development: Challenges, frameworks and next steps for PPP's in South East Asia (SEA)" at the OECD South East Asia Regional Forum (Bali, Indonesia, 25-26 March 2014);

(e) Korean Legislative Research Institute of the Republic of Korea with the publication of the "KLRI-UNCITRAL Joint Research: Perspectives and Trends" and hosting of numerous joint conferences;

(f) Research Institute for Asian Private Law by sharing of information regarding work currently undertaken on the Principles of Asian Contract Law.

4. Systematic consultations on technical assistance and other initiatives in the region were undertaken with the Hague Conference Asia Pacific Regional Office, the Asian Development Bank, the Asian Development Bank Institute and the International Finance Corporation. It should be noted that continuous coordination is being sought with the Centre for Asian Legal Exchange at Nagoya University, the Japan International Cooperation Agency and the International Cooperation Department of the Ministry Justice in Japan. The Regional Centre is further engaged with the United Nations Inter-Agency Cluster on Trade and Productive Capacity regarding the United Nations Development Assistance Framework (UNDAF) for Nepal. Contacts were also made with the United Nations Information Centres in Canberra, Colombo, Dhaka, Islamabad, Jakarta, Kathmandu, Manila, New Delhi, Tehran, Tokyo and Yangon to provide better media coverage of the activities of the Regional Centre and of legislative reform initiatives.

5. The activities of the Regional Centre relating to the dissemination of international trade norms and standards, in particular those elaborated by UNCITRAL, highlighted the importance of the use of uniform texts in trade law reform as a means to increase legal predictability and reduce costs in cross-border trade. This point is particularly relevant since it is not only important where subregions do not engage in regional economic integration through organizations with comprehensive legislation-making authority, as is the case of East Asia and the Pacific, but also where subregions already have a progressive integration to a common legislative framework, as is the case of South-East Asia. The establishment of ASEAN's Economic Community (AEC) by 2015 brings challenges and opportunities to the role of the Regional Centre, which will be expected to deliver further technical assistance for the progressive harmonization and modernization of international trade law.

6. Furthermore, the Regional Centre contributed intensively at the policymaking level to the discussion on the nexus between trade law reforms based on uniform texts, regional integration economic development as a catalyst for social stability and conflict prevention, and the rule of law. Seminars, workshops and public lectures were held at Aoyama Gakuin, Beijing Normal, Dankook, Dong-A, Incheon, Gachon, Hanoi, Hokkaido, Hong Kong, Hongik, Kobe, Macau, Seoul National and Yonsei University.

7. Of particular relevance is the establishment of the UNCITRAL Australian Nationai Coordination Committee. This private sector initiative, established with the support of the Law Council of Australia and recognized by the Regional Centre, expands the dissemination of international trade norms and standards in Australia. This grassroots organization will also engage in national coordination activities with institutions active in trade law reform projects. This model, a first in the region, provides the Regional Centre with additional resources to focus more on developing countries.

8. In the field of alternative dispute resolution, the Regional Centre organized with the Ministry of Justice of the Republic of Korea and the Korean Commercial Arbitration Board (KCAB), the Second Annual Arbitration Conference on "Arbitration Reform in the Asia Pacific Region: Opportunities and Challenges" (Seoul, 11-12 November 2013). Other events relating to alternative dispute resolution to which the Regional Centre contributed include participation in the "Asia Pacific Regional Arbitration Group (APRAG) Conference 2013: Arbitration in Asia and the Pacific in the Next Ten Years - Opportunities and Challenges" (Beijing, 27-29 June 2013); the Korea-China Dispute Resolution Symposium held at Dong-a University Law School (Busan, Republic of Korea, 2 November 2013) with a presentation on the UNCITRAL Transparency Rules; a seminar on investor-State dispute settlement 'uring the Foreign Direct Investment Moot Asia-Pacific Regional Rounds (Seoul, 22-24 August 2013); the International Bar Association Asia Pacific Arbitration Group (APAG) inaugural meeting with a presentation on the UNCITRAL Regional Centre activities (Sydney, 6 December 2013); and several lectures delivered at the KCAB's training courses on arbitration.

9. With respect to international sale of goods, and, in particular, the promotion and uniform interpretation of the United Nations Convention on Contracts for the International Sale of Goods, 1980 (CISG) the topic was regularly featured at events with the participation or jointly organized with the Regional Centre, such as a remote presentation at the 33rd International Trade Law Symposium (Canberra, Australia, 6-7 May 2013); the "CISG Arbitration Moot: Necessary knowledge and skills" at the Foreign Trade University (Hanoi, 27 November 2013); the Moot Alumni Association Peter Schlechtriem CISG Conference (Hong Kong SAR, China, 31 March 2014); and a presentation regarding the relation between CISG and Islamic law at the "2010 UNIDROIT Principles of International Commercial Contracts in light of international conventions and national laws" (Muscat, 23-24 March 2014).

10. Among potential new parties to CISG, progress towards the adoption of the CISG was reported by Viet Nam, following the positive conclusion of a public consultation on the matter and it should be noted that the Regional Centre co-organized a Seminar themed "CISG and its application in Vietnam" with the Foreign Trade University (Hanoi, 27 November 2013).

11. Regarding the promotion of UNCITRAL texts on electronic commerce, the Regional Centre cooperated in establishing a joint programme on training and researching e-commerce law with the Beijing Normal University Institute for the Internet Policy and Law and, in the framework of that programme, co-organized the "2013 Founding High-Level Forum on Chinese E-Commerce Legislation" (Beijing, 28 December 2013). Particular importance was given to trade facilitation namely stressing the benefits of the adoption of UNCITRAL uniform texts in the context of an enabling legal framework for electronic single window facilities (e.g., lecture at Keimyung University on "Trade facilitation and UNCITRAL texts"; remote presentation at the "TransRussia 2013 – XVIII Moscow International Transport and Logistics Conference on Legal aspects of trade facilitation and the Single Window").

12. The Regional Centre co-organized with the University of Queensland's TC Beirne School of Law (5 February of 2013, Brisbane, Australia) a conference themed "A modern legal framework to enable global trade: the new legislation on arbitration and on electronic transactions" which assisted with the enactment of Queensland's Act No. 35 of 2013, an omnibus bill that contains the provisions of the uniform revised Australian Electronic Transactions Act. With this enactment, all Australian States and territories have adopted that Uniform Act (Australian Electronic Transactions Act) which incorporates the substantial provisions of the United Nations Convention on the Use of Electronic Communications in International Contracts (New York, 2005) and was meant to facilitate the accession to that instrument.

13. In line with the specific priorities identified for the Regional Centre (A/67/17, para. 184) towards reaching out and providing technical assistance with international trade law reforms to developing countries in the region, assessing needs and mapping existing projects relating to trade law reform, the Regional Centre has undertaken several projects such as providing comments on the current Arbitration Law of Mongolia and the draft institutional rules of the Cambodian National Arbitration Centre (NAC). In cooperation with the Royal Academy for Judicial Professions of Cambodia, the Regional Centre delivered training on UNCITRAL topics to legal professionals (Phnom Penh, 5-8 August 2013). With the support of the Ministry of Justice of Korea, RCAP held a training programme on e-commerce to Cambodian delegates who are either members or consultants of the task force for enacting e-commerce law in Cambodia. Several contacts have been established with judicial training institutions (e.g., International Judicial Training Centre of the Republic of Korea; the Legal and Judicial Training Centre of Macau, China) to include and expand the inclusion of UNCITRAL texts in academic curricula, with particular emphasis on the New York Convention and the Model Law on Cross-Border Insolvency.

14. The Regional Centre has consolidated its function as a channel of communication between States in the region and UNCITRAL, setting up formal contact points within governments in the region and engaging in regular consultations with government officials from Cambodia, China (including Special Administrative Regions of Hong Kong and Macau), Indonesia, Japan, Malaysia, Myanmar, Nepal, Republic of Korea, Sri Lanka and Viet Nam.

15. Moreover, the Regional Centre has been active in supporting present and possible future UNCITRAL legislative-drafting work providing platforms for

substantive regional contributions, as was the case for the joint conference with the Ministry of Justice of Korea and the Korean Legislation Research Institute, themed "Enabling Environment for Microbusiness and Creative Economy" (Seoul, 14-15 October 2013) focused on the current discussions within WGI.

16. The Regional Centre is staffed with one professional, one team assistant and one legal expert. During this reporting period, 10 interns were hosted at the Regional Centre. The core project budget allows for the occasional employment of experts and consultants.

17. The Regional Centre relies on the generous financial contribution from the Incheon Metropolitan City to the Trust Fund for UNCITRAL Symposia to meet the cost of operation and programme, and on the contribution of a non-reimbursable loan of a legal expert by the Ministry of Justice of the Republic of Korea for the execution of technical cooperation activities. The Regional Centre has often been able to leverage on the resources of its partners, especially for contribution to the costs of travel and of meeting facilities and services.

18. Moreover, the Regional Centre continued to be supported by ESCAP in a number of administrative functions critical for carrying out its mandate.

19. It is expected that interest for UNCITRAL texts will grow with additional requests for technical assistance. Such increase will call for a corresponding increase in available resources. Additional contributions to the project from member States, or from interested entities recommended by member States, are required to further respond to regional expectations.